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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 09/713,432
Filing Date: November 15, 2000
Appellant(s): KILLIAN ET AL.

Robert D. Marshall, Jr.
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 7 June 2006 appealing from the Office action mailed 22 September 2004.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5,485,221	BANKER et al.	01-1996
5,717,923	DEDRICK	02-1998
5,758,257	HERZ et al.	05-1998
5,823,879	GOLDBERG et al.	10-1998
6,236,395	SEZAN et al.	05-2001

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1, 2, 5, 6, 8 and 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Sezan et al.** (U.S. Patent 6,236,395) in view of **Banker et al.** (U.S. Patent 5,485,221).

Claims 3 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Sezan et al.** (U.S. Patent 6,236,395) in view of **Banker et al.** (U.S. Patent 5,485,221) in view of **Goldberg et al.** (U.S. Patent 5,823,879).

Claims 4 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Sezan et al.** (U.S. Patent 6,236,395) in view of **Banker et al.** (U.S. Patent 5,485,221) in view of **Goldberg et al.** (U.S. Patent 5,823,879) in view of **Dedrick** (U.S. Patent 5,717,923).

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Sezan et al.** (U.S. Patent 6,236,395) in view of **Banker et al.** (U.S. Patent 5,485,221) in view of **Herz et al.[1]** (U.S. Patent 5,758,257).

These rejections are set forth in a prior Office action, mailed on 22 September 2004.

For the convenience of the Honorable Board of Appeals, a copy of the rejection of representative independent claims 1 and 6 is included herein.

Regarding claim 1, **Sezan et al.** teaches an apparatus for customizing television content operable to run on a computing platform electrically coupled to a receiver which is electrically coupled to a display device, the apparatus operable to receive supplemental data from a supplemental data database maintained by a television service provider as claimed, the apparatus comprising:

a) a television tuner/decoder operable to receive television signals from the television service provider and decode the received television signal (see col. 2, line 65 through col. 3, line 16; see also col. 4, lines 3-11; see also col. 7, lines 50-63);

b) an input device operable with said television tuner/decoder enabling a viewer to select for viewing one television signal received by said television tuner/decoder (this feature is inherent in a television; a user must have the ability to select a desired channel to watch);

c) a profile database operable to store a viewer profile (see disclosure of the user description scheme, analogous to the claimed profile database, at col. 5, line 36 through col. 6, line 22); and

c) a filter module disposed proximate to the display device and remote from the television service provider, said filter module electrically coupled to said profile database, said filter module operable to access the viewer profile and in response, to select a preferred display component according to the selected television signal and viewer profile, the preferred display component operable to target a particular viewer relative to other viewers (see col. 3, lines 48-59; see also col. 9, lines 48-52; see also col. 10, lines 31-37).

Besides simply using the profile database to provide customized program content, **Sezan et al.** also teaches the use of the user description scheme (analogous to the claimed profile database) to customize device settings, such as display brightness, contrast and volume (see col. 11, lines 6-22; see also col. 23, lines 1-7).

Sezan et al. does not explicitly teach an apparatus for customizing television content further comprising a supplemental data extractor operable to receive plural

supplemental data from the television signal provider, and an overlay coupled to said television tuner/decoder to receive the decoded television signal and to said filter module to receive the preferred display component, said overlay operable to integrate said decoded television signal and said preferred display component for combining display via a display device.

Banker et al., however, teaches an apparatus for customizing television content further comprising a supplemental data extractor operable to receive plural supplemental data from the television signal provider (see col. 3, lines 30-47), and an overlay disposed proximate to the display device and remote from the television service provider, said overlay coupled to said television tuner/decoder to receive the decoded television signal and to said filter module to receive the preferred display component, said overlay operable to integrate said decoded television signal and said preferred display component for combining display via a display device (see col. 3, lines 30-47 and lines 57-65).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the references, since they are both of the same field of endeavor,

that is, the delivery of desired multimedia content to a subscriber television from a multimedia data repository (see **Sezan et al.**, Abstract; see also **Banker et al.**, Abstract).

It would have been further obvious to one of ordinary skill in the art at the time of the invention to modify the system of **Sezan et al.** to provide the ability to integrate content from multiple media sources, since this would enable the display of multiple services of text and video simultaneously without requiring an additional tuner and without occupying more than a single band of the broadband television signal, as well as enabling several different virtual channels to be defined from the composite video signal, which has the advantage of providing the subscriber numerous different services without a corresponding increase in bandwidth (see **Banker et al.**, col. 5, lines 1-9).

Regarding claim 6, **Sezan et al.** teaches a method performed on a computing platform that is associated with a display device and a receiver for providing functionality associated with an apparatus for customizing television content as claimed, the method comprising:

a) storing a viewer profile in a profile database (see disclosure of the user description scheme, analogous to the claimed profile database, at col. 5, line 36 through col. 6, line 22);

b) receiving a plurality of television signals from the television signal provider (see col. 2, line 65 through col. 3, line 16; see also col. 4, lines 3-11; see also col. 7, lines 50-63);

c) receiving a viewer selection of one of the plurality of television signals (this feature is inherent in a television; a user must have the ability to select a desired channel to watch);

d) accessing the viewer profile in the profile database (see disclosure of the user description scheme, analogous to the claimed profile database, at col. 5, line 36 through col. 6, line 22); and

d) selecting a preferred display component according to the viewer profile, the preferred display component operable to target a particular viewer relative to other viewers (see col. 3, lines 48-59; see also col. 9, lines 48-52; see also col. 10, lines 31-37).

Besides simply using the profile database to provide customized program content, **Sezan et al.** also teaches the use of the user description scheme (analogous to the claimed profile database) to customize device settings, such as display brightness, contrast and volume (see col. 11, lines 6-22; see also col. 23, lines 1-7).

Sezan et al. does not explicitly teach a method for customizing television content further comprising receiving plural supplemental data from a display component database, and integrating the received television signal and said preferred display component for combining display to a viewer.

Banker et al., however, teaches a method for customizing television content further comprising receiving plural supplemental data from a display component database (see col. 3, lines 30-47), and integrating at a location proximate to the display device and remote from the television service center the received television signal and said preferred display component for combining display to a viewer (see col. 3, lines 30-47 and lines 57-65).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the references, since they are both of the same field of endeavor, that is, the delivery of desired multimedia content to a subscriber television from a multimedia data repository (see **Sezan et al.**, Abstract; see also **Banker et al.**, Abstract).

It would have been further obvious to one of ordinary skill in the art at the time of the invention to modify the system of **Sezan et al.** to provide the ability to integrate content from multiple media sources, since this would enable the display of multiple

services of text and video simultaneously without requiring an additional tuner and without occupying more than a single band of the broadband television signal, as well as enabling several different virtual channels to be defined from the composite video signal, which has the advantage of providing the subscriber numerous different services without a corresponding increase in bandwidth (see **Banker et al.**, col. 5, lines 1-9).

(10) Response to Argument

This Examiner's answer will address the arguments in the order in which they appear in the appeal brief.

A. Issue 1

Claims 1, 2, 5, 6, 8 and 16-19 are properly rejected under 35 U.S.C. 103(a) as being unpatentable over Sezan et al. (U.S. Patent 6,236,395) in view of Banker et al. (U.S. Patent 5,485,221).

Regarding claims 1, 2, 5, 6, 8 and 16-19, the Appellants make only two arguments; that **(1) Banker et al.** teaches user selection of a virtual channel including both the video and text data which are assembled by the cable head end, and thus the user is never able to select a text stream independently from the video, and that **(2)** the

combination of **Sezan et al.** and **Banker et al.** would select both the television signal and the corresponding supplemental data based on the user profile, in contrast to the claimed viewer selection of the television signal and automatic selection of supplemental data according to the selected television signal and viewer profile.

In response, the examiner presents the following arguments.

Regarding argument **(1)** [that **Banker et al.** teaches user selection of a virtual channel including both the video and text data which are assembled by the cable head end, and thus the user is never able to select a text stream independently from the video], the examiner respectfully disagrees.

As introduction, the examiner points out that in the art of signal transmission (and disclosed in **Banker et al.**), different signals may be transmitted together, such as through the disclosed composite signal, but each individual signal is discrete in that at the receiver, each signal is extracted from the composite signal. Thus, any assertion by the Appellants that a video signal is combined at the head end with supplemental data in such a way that each of the signals is not extracted/separated at the receiver is contrary to the state of the art, and the **Banker et al.** reference.

For instance, at col. 3, line 57 through col. 4, line 3, the reference teaches that a text data stream (analogous to the claimed supplemental data) can be transmitted along with a composite video signal in either the vertical blanking interval or via a dedicated out-of-band channel, both of which requires the text data stream to be extracted from the broad-band television signal in order for the subscriber terminal to display the text data stream.

Furthermore, at col. 15, lines 14-28, and concerning Figures 4A-4C, the reference teaches that multiple video signals (at least four, according to the drawing figures), can be combined into a composite video signal, and that three multiplexed text streams can be inserted into the vertical blanking interval *of the composite video signal.* This is evidence that the multiplexed text streams are combined with the video signals for the purpose of transmission, but no specific text stream is combined with a specific video signal at the head end in such a way that prevents each individual text stream and each individual video signal being extracted/separated at the receiver.

This fact is further illustrated at col. 4, lines 52-67, which discloses that when a virtual channel is selected, the text corresponding to the selected channel is extracted, and then the extracted text stream and the composite video signal is supplied to an on-screen display control which produces a video output display signal therefrom.

The Appellants argue that the user is never able to select a specific text stream independently from the video. While the **Banker et al.** reference does teach that a user may select from among a number of virtual channels, said virtual channels comprising predefined combinations of video and text streams, the examiner asserts that the reference also teaches that users have the capability to choose from among any video signal and any text stream for display.

Amongst the various disclosures regarding virtual channels, at col. 16, lines 7-16, it is disclosed that any combination of video and/or text services can be combined as a virtual channel by the system operator. In view of the immediately following text, the examiner interprets the term 'system operator' as the head-end signal source. Thus, in the case where a virtual channel is selected, said virtual channel has been *predefined* at the head end, and the viewer has no capability to select a specific text stream.

Immediately following, however, at lines 17-22, it is disclosed that

> "Furthermore, the system operator may authorize the subscriber to create a desired multi-service display from the services available from a composite video signal. For example, a menu page may be provided to assist the subscriber in selecting video and text services from the composite video signal provided on a physical channel."

The plain meaning of this disclosure is that, contrary to the Appellants' arguments, the end user does indeed have the capability to select any combination of video and/or text services that are available in the composite video signal for display on his/her television.

Regarding argument **(2)** [that the combination of **Sezan et al.** and **Banker et al.** would select both the television signal and the corresponding supplemental data based on the user profile, in contrast to the claimed viewer selection of the television signal and automatic selection of supplemental data according to the selected television signal and viewer profile], the examiner respectfully disagrees.

As discussed above, the **Banker et al.** reference teaches a system wherein the subscriber has the capability to select any combination of video and supplemental data (such as text data) for display on a television. The **Sezan et al.** reference teaches generally a system for selecting content for display to a viewer based upon the viewer's profile.

For instance, at col. 3, lines 21-25, **Sezan et al.** discloses that "the audiovisual information presented to a particular user should be in a format and include content suited to their particular viewing preferences. In addition, the format should be dependent on the content of the particular audiovisual information."

Additionally, the reference teaches an analysis module which analyzes the programming content selected for viewing by the user, and selects textual information to be displayed based on the selected program content and user profile.

At col. 8, lines 30-55, an analysis module is disclosed, wherein "The selection of a particular program analysis technique depends upon the amount of readily available data and the user preferences", said readily available information analogous to the claimed supplemental data.

"For example, if the user prefers to watch a 5 minute video highlight of a particular program, such as a basketball game, the analysis module may invoke a knowledge based system to determine the highlights that form the best 5 minute summary...The analysis module may also invoke other modules to bring information together (e.g., textual information) to author particular program views...The analysis module may also include other sub-modules, such as for example...a data and service

content analyzer, a text processing and text summary generator, [and] a close [sic] caption analyzer...".

The disclosure of "bringing information together (e.g., textual information) to author particular program views" clearly reads on the claimed system wherein based upon a user's preferences and the specific programming selected, supplemental data (such as textual data) is selected and displayed.

For these reasons, the Examiner maintains that the rejection of claims 1, 2, 5, 6, 8 and 16-19 is proper, and should be sustained.

B. Issue 2

Claims 3 and 9 are properly rejected under 35 U.S.C. 103(a) as being unpatentable over Sezan et al. (U.S. Patent 6,236,395) in view of Banker et al. (U.S. Patent 5,485,221) in view of Goldberg et al. (U.S. Patent 5,823,879).

Claims 4 and 10 are properly rejected under 35 U.S.C. 103(a) as being unpatentable over Sezan et al. (U.S. Patent 6,236,395) in view of Banker et al. (U.S.

Patent 5,485,221) in view of Goldberg et al. (U.S. Patent 5,823,879) in view of Dedrick (U.S. Patent 5,717,923).

Claim 7 is properly rejected under 35 U.S.C. 103(a) as being unpatentable over Sezan et al. (U.S. Patent 6,236,395) in view of Banker et al. (U.S. Patent 5,485,221) in view of Herz et al.[1] (U.S. Patent 5,758,257).

The Appellants argue that claims 3, 4, 7, 9 and 10 are allowable by dependency upon allowable base claims.

In response to this argument, the examiner respectfully disagrees, and draws the Appellants' attention to the arguments presented with regard to independent claims 1 and 6.

For these reasons, the Examiner maintains that the rejection of claims 3, 4, 7, 9 and 10 is proper, and should be sustained.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

Conclusion

Claims 1-10 and 16-19 are properly rejected under 35 U.S.C. §103(a).

In light of the foregoing arguments, the Examiner respectfully requests the Honorable Board of Appeals to sustain the rejections.

For the above reasons, it is believed that the rejections of record should be sustained.

Respectfully submitted,

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